

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2171 OF 2007

Smt. Sushma Gupta

..Petitioner

Vs.

The Commissioner of Income Tax-12
& Ors.

..Respondents

Mr. A.M.Sethna with Mr. S.D. Bhosale, for the Petitioner
Mr. A.S. Rao, for the Respondents.

**CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.
DATED : 17TH OCTOBER 2007**

P.C.

1. It is the case of the petitioner that considering Section 138 of the Income Tax Act the Respondents ought not to have issued certified copies of the assessee's return and annexure enclosed therewith considering that the power under Section 138 of the Income Tax Act has been conferred on the Chief Commissioner or Commissioner of Income Tax.

2. It appears that the certified copies of the said documents which were issued were placed before the Company Law Board and the Company Law Board acted on the same.

3. One of the contentions raised before us was that the certified copies which were furnished were fabricated documents and were not true copies of the originals which were filed by the assessee, the petitioner herein.

4. After hearing the Counsel for the petitioner we had passed an order directing the Income Tax Authorities to produce the original records. The same have been produced before us. Prima facie we find that the certified copies

which have been issued and the copies of which annexed to the petition reflect the position which is in the records.

5. The party who had applied for the records is not a party before us. It is, therefore, not possible for us to pass any order whether the documents were correctly issued to the party and at whose instance the order was passed directing issuing of those copies. We are given to understand that the Vigilance enquiry is going on. It is for the Authorities to proceed with the Vigilance enquiry according to law.

6. Considering that the order has been passed by the Company Law Board, in our opinion, this would not be a fit case for us to exercise our extra ordinary jurisdiction. It will be open to the Petitioner, if entitled in law to challenge that order passed by the Company Law Board and raise whatever challenge she has in those proceedings. Considering the controversy in our opinion this would not be a fit case for us to exercise our extra ordinary jurisdiction.

. With the above observations petition disposed of.

(J.P. DEVADHAR, J.)

(F.I. REBELLO, J)